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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 KARL PETERSON and MARTINE  
9 BERTIN-PETERSON, a married couple,

10 Plaintiffs,

11 v.

12 GRAOCH ASSOCIATES #111  
13 LIMITED PARTNERSHIP, a Washington  
14 limited partnership, et al.,

Defendants.

CASE NO. C11-5069BHS

ORDER DENYING  
PLAINTIFFS' MOTION TO  
COMPEL

15 This matter comes before the Court on Plaintiffs Karl Peterson and Martine Bertin-  
16 Peterson's ("Petersons") motion to compel (Dkt. 59). The Court has reviewed the briefs  
17 filed in support of and in opposition to the motion and the remainder of the file and  
18 hereby denies the motion for the reasons stated herein.

19 On August 22, 2011, Defendants' attorneys filed a motion for leave to withdraw.  
20 Dkt. 53. On August 25, 2011, the Petersons filed a motion to compel. Dkt. 59. On  
21 September 1, 2011, Defendants filed a motion for relief from deadline to respond to the  
22 motion to compel. Dkt. 67. On September 14, 2011, the Court granted the motion and  
23 renoted the Petersons' motion to October 14, 2011. Dkt. 84.

24 On October 12, 2011, attorney David Hugh Smith appeared on behalf of  
25 Defendants. Dkt. 91. On October 14, 2011, Defendants filed another motion for relief  
26 from deadline. Dkt. 92. On November 3, 2011, the Court granted the motion for relief  
27 and renoted the Petersons' motion to November 18, 2011. Dkt. 105.  
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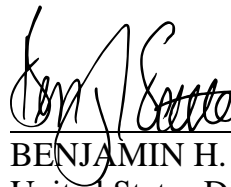
1 On November 15, 2011, Defendants filed a supplemental response and claim that  
2 they have produced over 1600 pages of responsive documents. Dkt. 111. Defendants  
3 request that the Court deny the motion to compel as moot. *Id.*

4 On November 18, 2011, the Petersons replied. Dkt. 116. Plaintiffs argue that the  
5 Court should grant the motion to compel and award attorney's fees and costs incurred in  
6 bringing the motion. *Id.*

7 The Court finds that, based on the current record, the motion to compel is moot.  
8 With regard to sanctions, the Court finds that circumstances exist that justify no award of  
9 attorney's fees and costs. Defendants were in the process of obtaining new counsel when  
10 the Petersons filed the motion, and Defendants' new counsel is cooperating in discovery.

11 Therefore, it is hereby **ORDERED** that the Petersons' motion to compel (Dkt. 59)  
12 is **DENIED**.

13 DATED this 28th day of December, 2011.

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16 BENJAMIN H. SETTLE  
17 United States District Judge  
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